

**REMARKS**

Claims 1-123 have been canceled without prejudice or disclaimer. Claims 124-161 have been added and therefore are pending in the present application. Claims 124-161 are supported by, e.g., claims 1-123.

The specification has been amended to update the Cross-Reference to Related Applications section.

It is respectfully submitted that the present amendment presents no new issues or new matter and places this case in condition for allowance. Reconsideration of the application in view of the above amendments and the following remarks is requested.

**I. The Restriction Requirement**

The Office Action made a restriction requirement between 259 groups. As provided therein, Applicants provisionally elected the invention of Group 4 (claims 110-120). Applicants confirm this election. Applicants hereby reserve the right to file continuing applications directed to the nonelected subject matter.

**I. The Rejection of Claims 110-113 and 120 under 35 U.S.C. 112**

Claims 110-113 and 120 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the invention. Specifically, the Office stated that "[t]he specification fails to exemplify or describe the preparation of a sufficient number of species of subject matter of catalytic domain products of claims 110 and 111." This rejection is respectfully traversed.

It is well settled "[t]he test for determining compliance with the written description requirement is whether the disclosure of the application as originally filed reasonably conveys to the artisan that the inventor had possession at that time of the later claimed subject matter...." *In re Kaslow*, 217 USPQ 1089, 1096 (Fed. Cir. 1983).

The USPTO issued Guidelines on compliance with the written description requirement. In the Guidelines, the USPTO states that an applicant may comply with the written description requirement by "show[ing] that an invention is complete by disclosure of sufficiently detailed, relevant identifying characteristics..., i.e., complete or partial structure, other physical and/or chemical properties, function characteristics when coupled with a known or disclosed correlation between function and structure, or some combination of such characteristics."

Guidelines, 66 Fed. Reg. at 1106. In *Enzo Biochem Inc. v. Gen-Probe Inc.*, 63 U.S.P.Q.2d 1609 (Fed. Cir. 2002), the Federal Circuit adopted the USPTO's standard for determining compliance with the written description requirement.

In the present case, the claims are drawn to subtilases having a specified amino acid sequence. Applicants therefore have provided a disclosure of the structure of the claimed subtilases. Furthermore, the application discloses 28 subtilases having a catalytic domain which shares at least 90% identity with SEQ ID NO: 134. Under the standards set forth in the USPTO's Guidelines and adopted by the Federal Circuit, Applicants submit that the specification complies with the written description requirement.

For the foregoing reasons, Applicants submit that the claims overcome this rejection under 35 U.S.C. 112. Applicants respectfully request reconsideration and withdrawal of the rejection.

**II. The Rejections of Claims 110-115 and 120 under the Doctrine of Obviousness-Type Double Patenting**

Claims 110-115 and 120 are rejected under the doctrine of obviousness-type double patenting over claims 1-7 and 20-23 of the commonly-assigned U.S. Patent No. 6,777,218.

Applicants will file a terminal disclaimer upon an indication of allowable subject matter.

**III. The Rejection of Claims 110 and 111 under 35 U.S.C. 102(b)**

Claims 110 and 111 are rejected under 35 U.S.C. 102(b) as being anticipated by van der Laan et al., 1991. Specifically, the Office stated that van der Laan et al., disclose a subtilisin variant that "shares 84% sequence identity with the elected catalytic domain sequence set forth in SEQ ID NO: 134." This rejection is respectfully traversed.

The subtilisin variant disclosed in van der Laan shares less than 84% identity with SEQ ID NO: 134. Moreover, van der Laan do no disclose or suggest polypeptides having endoprotease activity, which have an amino acid sequence that is at least 90% identical to SEQ ID NO: 134 over a comparison window of SEQ ID NO: 134, as claimed herein. Applicants therefore submit that this rejection has been overcome.

**IV. The Rejection of Claims 110-112 under 35 U.S.C. 102(b)**

Claims 110-112 are rejected under 35 U.S.C. 102(b) as being anticipated by Kobayashi et al., 1995. Specifically, the Office stated that Kobayashi et al., disclose a subtilisin variant that

"shares 85% sequence identity with the elected catalytic domain sequence set forth in SEQ ID NO: 134." This rejection is respectfully traversed.

The subtilisin variant disclosed in Koboyashi et al. shares less than 85% identity with SEQ ID NO: 134. Moreover, Koboyashi et al. do no disclose or suggest polypeptides having endoprotease activity, which have an amino acid sequence that is at least 90% identical to SEQ ID NO: 134 over a comparison window of SEQ ID NO: 134, as claimed herein. Applicants therefore submit that this rejection has been overcome.

**V. The Rejection of Claims 110-112 and 120 under 35 U.S.C. 102(e)**

Claims 110-112 and 120 are rejected under 35 U.S.C. 102(e) as being anticipated by Christianson et al. (U.S. Patent No. 5,340,735). Specifically, the Office stated that Christianson et al., disclose a subtilisin variant that "shares 85% sequence identity with the elected catalytic domain sequence set forth in SEQ ID NO: 134." This rejection is respectfully traversed.

The subtilisin variant disclosed in Christiansen et al. shares less than 85% identity with SEQ ID NO: 134. Moreover, Christianson et al. do no disclose or suggest polypeptides having endoprotease activity, which have an amino acid sequence that is at least 90% identical to SEQ ID NO: 134 over a comparison window of SEQ ID NO: 134, as claimed herein. Applicants therefore submit that this rejection has been overcome.

**V. The Rejection of Claims 110-115 and 120 under 35 U.S.C. 102(e)**

Claims 110-115 and 120 are rejected under 35 U.S.C. 102(e) as being anticipated by Mikkelsen et al. (U.S. Patent No. 6,777,218). This rejection is respectfully traversed.

The subject matter described in Mikkelsen et al. and Applicants' invention claimed herein were developed in the same collaboration and project by Maxygen and Novozymes. Thus, Mikkelsen et al. is not prior art against the present application.

**X. Conclusion**

In view of the above, it is respectfully submitted that all claims are in condition for allowance. Early action to that end is respectfully requested. The Examiner is hereby invited to contact the undersigned by telephone if there are any questions concerning this amendment or application.

Respectfully submitted,

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